

KELLY D. MANZER,

Appellant,

-vs-

THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA,

Respondent.

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) DOCKET NO.: PT-2003-40

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) FACTUAL BACKGROUND,

) CONCLUSIONS OF LAW,

) ORDER and OPPORTUNITY

) FOR JUDICIAL REVIEW

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The duty of this Board is to determine the appropriate market value for the property based on a preponderance of the evidence. Testimony was taken from both the taxpayer and the Department of Revenue, and exhibits from both parties were received.

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### **FACTUAL BACKGROUND**

1. Due, proper, and sufficient notice was given of this matter, the hearing hereon, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The subject property is described as follows:

Land only described as Lot 8, Block 12, Community Hall Addition to the City of Great Falls at 713 13<sup>th</sup> Street SW, County of Cascade, State of Montana. (Assessor ID #: 0000604000).

3. For tax year 2003, the Department of Revenue appraised the subject land at a value of \$25,390.

4. The taxpayer filed an appeal with the Cascade County Tax Appeal Board on August 12, 2003, requesting a land value of \$12,000, stating the following reasons for appeal:

Land value of property exceeds the market value of real estate in this area.

5. In its December 1, 2003 decision, the county board denied the taxpayer's appeal, stating:

After hearing testimony and receiving exhibits, the Board finds the land value of \$25,390.00 accurately reflects the fair market value in this area. This appeal is disapproved.

6. The taxpayer then appealed that decision to this Board on December 15, 2003, citing the following reason for appeal:

This land appears to have become land-locked since last appraisal and the land value increased by 218% which seems to be an unfair market value.

**TAXPAYER'S CONTENTIONS**

Ms. Manzer testified that an access road to the rear of her property has recently been posted with a private property sign and a makeshift gate. In addition, 13<sup>th</sup> Street SW, the street serving the front of her house, ends in gravel on her property line. These two features have a devaluing effect on the market value of her property. She is not disputing the DOR value on her house.

She also disputes the validity of a 218 percent increase in land value between the prior and current reappraisal cycle (from \$11,000 to \$25,000).

When she first purchased the property, she could use the rear access road to get to her barn and corral and to bring in hay, and to remove manure, associated with her horses. Being a veterinarian by trade, she stated that she bought the property so that she could keep horses and foal out mares in the barn. She introduced a series of

photographs depicting the layout of the access problem she described. (Taxpayer's Exhibit 1). Since the placement of the gate and the private property sign across the rear access road, her only access to the barn is through a small gate at the front of the property. She cannot drive through this gate, precluding any ability to bring in hay, or remove manure, using a truck. Currently, she doesn't keep any horses on her property due to the aforementioned difficulties.

She also disputes the comparability of some of the sale properties used by the DOR to value her land: she was unable to find a property with no paved road, no sidewalks, and a land-locked backyard with a barn facing the rear of the property.

Taxpayer's Exhibit 1 contains information regarding several riverfront properties, more desirable, in her view, showing that these properties are valued similarly to hers but with more amenities.

In response to questioning by the Board, Ms. Manzer stated that she has not pursued any legal opinions concerning her rights of ingress or egress to the rear access road.

Her requested value is that of the prior reappraisal cycle.

#### **DOR'S CONTENTIONS**

For the DOR, Ms. Ivers presented a series of exhibits in support of the subject land valuation. DOR Exhibit A is a copy of the property record card, showing that the subject 18,106 square feet of land has been appraised at \$25,390.

DOR Exhibit B is a series of photographs of the exterior of the subject property. These photographs depict a similar layout as those presented by Ms. Manzer.

The neighborhood in which the subject land is located is defined as Neighborhood 7. Neighborhood 7 encompasses the Northwest Bypass to the Missouri River and then to 10<sup>th</sup> Avenue South and extends out to take in several over-sized lots west of Interstate 15. Neighborhood designations are the construct of the Department of Revenue. Neighborhood 7 contains typical 50' by 125' lots and over-sized lots as well and is zoned suburban residential. One of the permitted uses is livestock. Part of its desirability is the rural feeling of these suburban lots that are serviced by city sewer, water, emergency responses and street maintenance.

DOR Exhibit C is a list of vacant land sales used by the

DOR to value the subject land. This exhibit shows the dates, location and sales prices of the land parcels. Ms. Ivers testified that Sales 15 through 25 on this exhibit, in comparison to the subject property, are closest in proximity, and the most similar with respect to access from only one side of the property and limited asphalt. The sales all occurred between 1996 and 2001, within the target valuation timeframe for the current appraisal cycle. DOR Exhibit D is a map showing the location of the sales referenced in Exhibit C. In pertinent part, Exhibit C is summarized as follows:

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Sale number	Sale Date	Sale Price	Lot Size in Square Feet
15	April 1998	\$15,000	11,907
16*	June 1996	\$18,000	13,000
17*	February 2000	\$18,000	13,000
18	April 2000	\$14,500	10,803
19	September 2000	\$20,000	14,985
20*	September 1996	\$18,000	12,800
21*	February 1999	\$20,000	12,800
22	February 1998	\$10,000	4,888
23*	April 1996	\$14,000	6,250
24*	September 1998	\$16,000	6,250
25	April 1997	\$11,500	6,250

\*denotes paired sale: the same property sold twice.

Ms. Ivers stated that the base lot size for Neighborhood 7 is 10,000 square foot. Based on the 25 sales depicted on Exhibit C, the DOR determined a base rate of \$1.85 per square foot for the first 10,000 square feet and a residual rate of \$0.85 for any land size above or below the 10,000 square foot base size.

Ms. Ivers offered DOR Exhibit E, a series of photographs

of the properties associated with sales 15 through 25, in support of the DOR contention that the subject land is comparable to the sales properties.

Regarding the dramatic increase in value between the past and current reappraisal cycle, Ms. Ivers stated that this was typical for Neighborhood 7. The subject land received a downward adjustment in the last appraisal cycle, which neighboring parcels did not receive, pursuant to a request for property review filed by Ms. Manzer. Therefore, for this cycle, the increase seemed larger in proportion to neighboring properties because the subject land started at a lower value.

To demonstrate that the DOR has appraised the subject land in the same manner as other parcels in Neighborhood 7, Ms. Ivers offered DOR Exhibit F, a document entitled "Land Equity Comparison Spreadsheet." The appraised values, size and street addresses of six comparable properties, three to the north and three to the south of the subject, are contained in Exhibit F. According to Ms. Ivers, "this was just an illustration that everyone in the neighborhood [Neighborhood 7] was treated the same."

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### **BOARD'S DISCUSSION**

The Board finds that the DOR has satisfactorily demonstrated that its appraisal of the subject land was performed in accordance with statute and administrative rule. Substantial and compelling sales evidence was presented by the DOR in support of its value.

In the absence of compelling testimony and evidence in support of the taxpayer's requested value, the Board will uphold the value as determined by the DOR.

As it appears that Ms. Manzer was allowed access to the rear access road at the time of her purchase up until recent months, it appears prudent for Ms. Manzer to direct some questions to her neighbors to find out who constructed the barrier and why.

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**CONCLUSIONS OF LAW**

1. The State Tax Appeal Board has jurisdiction over this matter. §15-2-301, MCA.
2. §15-8-111 MCA. Assessment - market value standard - exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.
3. The appeal of the taxpayer is denied and the decision of the Cascade County Tax Appeal Board is affirmed.

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**ORDER**

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Cascade County by the local Department of Revenue office at the land value of \$25,390 for tax year 2003, as determined by the DOR. The decision of the Cascade County Tax Appeal Board is affirmed.

Dated this 19th day of July, 2004.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

( S E A L )

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GREGORY A. THORNQUIST, Chairman

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JERE ANN NELSON, Member

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JOE R. ROBERTS, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 19th day of July, 2004, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Kelly D. Manzer  
713 13<sup>th</sup> Street SW  
Great Falls, Montana 59404-3105

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Department of Revenue  
Mitchell Building  
Helena, MT 59620

Ms. Dorothy Thompson  
Property Tax Assessment  
Department of Revenue  
Mitchell Building  
Helena, Montana 59620

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Great Falls, MT 59401-4093

Nick Lazanas  
Chairperson  
Cascade County Tax Appeal Board  
Courthouse Annex  
Great Falls, Montana 59401

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DONNA EUBANK  
Paralegal